

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

CSX TRANSPORTATION, INC.,

Plaintiff,

v.

JOHN J. VELA, JOHN J. VELA

TRUCKING d/b/a

JAY'S TRUCKING, SULLIVAN

FIRE DEPARTMENT, CITY OF SULLIVAN,
INDIANA

and DONALD RAY HUFF,

Defendants.

JOHN J. VELA, JOHN J. VELA

TRUCKING d/b/a JAY'S TRUCKING,

Counterclaim Plaintiff's

v.

CSX TRANSPORTATION, INC.,

Counterclaim Defendant.

JOHN J. VELA, JOHN J. VELA

TRUCKING d/b/a JAY'S TRUCKING,

Crossclaim Plaintiffs,

v.

CITY OF SULLIVAN, INDIANA, and
DONALD RAY HUFF,

Crossclaim Defendants.

Cause No. 2:06-CV-0112RLYWGH

MOTION TO DISMISS WITHOUT PREJUDICE

COMES NOW, Crossclaim/Plaintiff, John J. Vela and John J. Vela Trucking d/b/a Jay's Trucking, by counsel and file herein their Motion to Dismiss Without Prejudice, Count I of its Amended Crossclaim, against Crossclaim Defendant, Donald Ray Huff and states as follows:

1. Due to the fact that Counterclaim Defendant, CSX Transportation, Inc. admitted within its response to Counterclaim and reply to Amended Counterclaim, that Donald Ray Huff was their employee and that he was acting within the ordinary scope and course of his employment with CSX Transportation, Crossclaim Plaintiffs, John J. Vela and John J. Vela Trucking d/b/a Jay's Trucking move to dismiss without prejudice Count I of its Amended Crossclaim against Crossclaim Defendant, Donald Ray Huff.

WHEREFORE, Crossclaim Plaintiffs, John J. Vela and John J. Vela Trucking d/b/a Jay's Trucking pray the Court for an Order Dismissing Without Prejudice Count I of its Amended Crossclaim as to Crossclaim Defendant, Donald Ray Huff, and for all other relief proper in the premises.

Respectfully submitted,
STURM, SMITH, PARMENTER,
FIELD & MILLER, LLP

By: s/Jason C. Field
Jason C. Field, #21965-42
Attorneys for the Defendant, John J. Vela
1202 Main Street
Post Office Box 393
Vincennes, IN 47591
(812) 882-1303

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing document has been electronically filed with the Clerk of the Court using the CM/ECF system. Parties may access this filing through the Court's CM/ECF system on this **31st day of August, 2007**. Notice of this filing will be sent to the following by operation of the Court's electronic filing system.

s/Jason C. Field